**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

TRANSCANADA PIPELINE USA LTD.,

                Petitioner,

   v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY AND MICHAEL
S. REGAN, Administrator, U.S. EPA

                Respondents.

Case No. 23-1205 (and consolidated cases)

**<u>NONBINDING STATEMENT OF ISSUES OF
TRANSCANADA PIPELINE USA LTD.</u>**

Pursuant to this Court's Order, Petitioner TransCanada PipeLine USA Ltd. ("TC Energy") submits the following nonbinding statement of issues to be raised:

1. Whether the Environmental Protection Agency's ("EPA") Federal "Good Neighbor Plan" for the 2015 Ozone National Ambient Air Quality Standards, 88 Fed. Reg. 36,654 (June 5, 2023) ("Rule") violates the Clean Air Act and is arbitrary, capricious, and contrary to law because of its reliance on an overly broad applicability criterion.

2. Whether EPA's Rule establishes emissions limitations that disregard cost-effectiveness and are therefore arbitrary and capricious and violate the Clean Air Act.

3. Whether EPA violated the Clean Air Act and acted arbitrarily and capriciously when it departed from its prior practice by failing to identify the "amounts" of emissions contributing significantly to downwind nonattainment.

4. Whether EPA acted arbitrarily and capriciously by failing to take reliability impacts into account when adopting the Rule.

Date: September 6, 2023   Respectfully submitted,

/s/ Brittany M. Pemberton

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<u>CERTIFICATE OF SERVICE</u>

I certify that on September 6, 2023, the foregoing was electronically filed through this Court's CM/ECF system, which will send a notice of filing to all registered users.

Date: September 6, 2023   Respectfully submitted,

/s/ Brittany M. Pemberton
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